

# SENATE JOURNAL

## OF THE

# IDAHO LEGISLATURE

FIRST REGULAR SESSION  
SIXTIETH LEGISLATURE

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SEVENTY-FOURTH LEGISLATIVE DAY  
THURSDAY, MARCH 26, 2009

Senate Chamber

President Little called the Senate to order at 10 a.m.

Roll call showed all members present except Senators Bair, Brackett, Cameron, Corder, Hammond, Hill, LeFavour, Lodge, McKenzie, Mortimer, Pearce, Schroeder, and Stegner, absent and excused.

Prayer was offered by Chaplain Henry Webb.

The Pledge of Allegiance was led by Emily Tippetts, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 25, 2009, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Bair, Corder, Hammond, Lodge, and Stegner were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### Petitions, Resolutions, and Memorials

#### SJM 102 BY STATE AFFAIRS COMMITTEE A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES  
OF THE UNITED STATES IN CONGRESS ASSEMBLED,  
AND TO THE CONGRESSIONAL DELEGATION  
REPRESENTING THE STATE OF IDAHO IN THE  
CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the right of Idaho employees to freely choose representation by a labor organization by way of a federally

supervised private ballot election is among the most important protections afforded under federal labor law and is at the heart of Idaho democratic tradition; and

WHEREAS, for over 70 years, it has been the fundamental tenet of collective bargaining that parties be required to honor an agreement only when each party has agreed to its terms. The use of arbitration to establish contractual terms will only serve to undermine the industrial stability that collective bargaining was designed to enhance; and

WHEREAS, the passage of the Employee Free Choice Act would eliminate the current federal rights of Idaho employees, as well as employees across the nation, to recognize union representation by a private ballot election and would put in place a card check union organizing system through which employees openly sign authorization cards in front of union organizers, leaving employees vulnerable to coercion, harassment and abuse; and

WHEREAS, the recognition of a labor organization by the card check system threatens the freedom of Idaho employees and severely limits the ability of the National Labor Relations Board to ensure the protection of Idaho workers; and

WHEREAS, the private ballot election process established and refined through decades of experience carefully balances the interests of employees, unions and employers and ensures that workers are well informed and are given the opportunity to make an educated decision, in private, without intimidation or coercion; and

WHEREAS, the mandatory arbitration provisions in the Employee Free Choice Act would remove any incentive for the employer or the union to adopt realistic bargaining positions, as each would be posturing for the arbitration panel, which would have control of the most basic business decisions; and

WHEREAS, the "card check" bill, if passed, would increase penalties against employers, but not against labor organizations, for violations of the National Labor Relations Act, requiring employers to pay triple back pay, as well as a civil penalty of up to \$20,000 for each violation; and

WHEREAS, the vast majority of American voters oppose the Employee Free Choice Act, while 82% favor having a federally supervised secret ballot election as a means to protect the individual rights of workers.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the members of Congress representing the state of Idaho to oppose final passage of the Employee Free Choice Act.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SJM 102 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senators Brackett, Hill, LeFavour, McKenzie, Mortimer, Pearce, and Schroeder were recorded present at this order of business.

March 25, 2009

The STATE AFFAIRS Committee reports out [HJM 3](#) and [S 1145](#) with the recommendation that they do pass.

MCKENZIE, Chairman

[HJM 3](#) was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

[S 1145](#) was filed for second reading.

March 25, 2009

The STATE AFFAIRS Committee reports out [H 194](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

MCKENZIE, Chairman

There being no objection, [H 194](#) was referred to the Fourteenth Order of Business, General Calendar.

March 24, 2009

The LOCAL GOVERNMENT AND TAXATION Committee reports out [S 1144](#) with the recommendation that it do pass.

HILL, Chairman

[S 1144](#) was filed for second reading.

March 25, 2009

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Scott McLeod to the Idaho Lottery Commission, term to expire January 1, 2014.

Larry A. Crowley to the Idaho Energy Resources Authority, term to expire June 30, 2013.

Jeffrey L. Bowen to the Bingo-Raffle Advisory Board, term to expire January 7, 2011.

MCKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 25, 2009

The FINANCE Committee reports out [H 255](#) with the recommendation that it do pass.

CAMERON, Chairman

[H 255](#) was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

### Messages from the House

March 25, 2009

Dear Mr. President:

I transmit herewith [H 245](#), [H 256](#), and [HJM 7](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 245](#), [H 256](#), and [HJM 7](#) were filed for first reading.

March 25, 2009

Dear Mr. President:

I transmit herewith Enrolled [H 10](#), [H 105](#), [H 55](#), [H 88](#), [H 89](#), [H 90](#), [H 91](#), [H 92](#), [H 109](#), [H 193](#), [H 154](#), as amended, [H 107](#), [H 179](#), [H 184](#), [H 101](#), [H 125](#), [H 126](#), [H 70](#), as amended in the Senate, [H 152](#), as amended in the Senate, and [H 76](#), as amended in the Senate, for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [H 10](#), [H 105](#), [H 55](#), [H 88](#), [H 89](#), [H 90](#), [H 91](#), [H 92](#), [H 109](#), [H 193](#), [H 154](#), as amended, [H 107](#), [H 179](#), [H 184](#), [H 101](#), [H 125](#), [H 126](#), [H 70](#), as amended in the Senate, [H 152](#), as amended in the Senate, and [H 76](#), as amended in the Senate, and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

The President announced that the Transportation Committee report relative to the Gubernatorial appointment of Jerry Whitehead was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator McGee, seconded by Senator Bilyeu, the Gubernatorial appointment of Jerry Whitehead as a member of the Idaho Transportation Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

### Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

Senator Cameron was recorded present at this order of business.

**S 1163**  
**BY STATE AFFAIRS COMMITTEE**  
AN ACT

RELATING TO MOTOR VEHICLES AND FINANCIAL RESPONSIBILITY; AMENDING SECTION 49-117, IDAHO CODE, TO REVISE THE DEFINITION OF "PROOF OF FINANCIAL RESPONSIBILITY"; AND PROVIDING AN EFFECTIVE DATE.

**S 1164**  
**BY STATE AFFAIRS COMMITTEE**  
AN ACT

RELATING TO CASUALTY INSURANCE CONTRACTS; AMENDING SECTION 41-2503, IDAHO CODE, TO REVISE THE DEFINITION OF "UNDERINSURED MOTOR VEHICLE"; AND PROVIDING AN EFFECTIVE DATE.

[S 1163](#) and [S 1164](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 245](#) and [H 256](#), by Education Committee, were introduced, read the first time at length, and referred to the Education Committee.

[HJM 7](#), by Education Committee, was introduced, read at length, and referred to the State Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

On request by Senator Davis, granted by unanimous consent, [S 1141](#), as amended, was referred to the Fourteenth Order of Business, General Calendar.

[H 250](#), by Appropriations Committee, was read the second time at length and filed for third reading.

[H 163](#), by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading.

[H 222](#), by Education Committee, was read the second time at length and filed for third reading.

[H 173](#), by State Affairs Committee, was read the second time at length and filed for third reading.

[H 43](#), by Commerce and Human Resources Committee, was read the second time at length and filed for third reading.

[H 151](#), by Transportation and Defense Committee, was read the second time at length and filed for third reading.

[H 14](#), as amended, as amended in the Senate, by State Affairs Committee, was read the second time at length and filed for third reading.

[H 141](#), as amended in the Senate, by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

[H 159](#), as amended in the Senate, by Education Committee, was read the second time at length and filed for third reading.

[H 217](#), as amended in the Senate, by State Affairs Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

[S 1158](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1158](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1150](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1150](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1151](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Smyser disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1151](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1152](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator

Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1152](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1148](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Moved by Senator Bilyeu, seconded by Senator Werk, that [S 1148](#) be referred to the Fourteenth Order of Business for amendment. The question being, "Shall the motion prevail?"

Roll call vote was requested by Senators Bilyeu, Werk, and Davis.

Roll call resulted as follows:

AYES—Bair, Bilyeu, Hill, Keough, Mortimer, Pearce, Schroeder, Siddoway. Total - 8.

NAYS—Andreason, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Jorgenson, Kelly, LeFavour, Lodge, McGee, McKague, McKenzie, Sagness (Malepeai), Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 27.

Total - 35.

Whereupon the President declared that the motion to refer [S 1148](#) to the Fourteenth Order of Business for amendment did not prevail.

On request by Senator McKenzie, granted by unanimous consent, the following typographical correction was made to [S 1148](#), pursuant to Senate Rule 9(F):

On page 4, line 17, change the word "sections" to "section" and on page 9, Section 6, line 40, change the spelling of "licencing" to "licensing".

The question being, "Shall [S 1148](#) pass?"

Roll call resulted as follows:

AYES—Andreason, Bock, Brackett, Cameron, Coiner, Darrington, Fulcher, Geddes, Goedde, Hammond, Heinrich, Jorgenson, Kelly, LeFavour, Lodge, McGee, McKague, McKenzie, Sagness (Malepeai), Stegner, Thorson (Stennett), Werk, Winder. Total - 23.

NAYS—Bair, Bilyeu, Broadsword, Corder, Davis, Hill, Keough, Mortimer, Pearce, Schroeder, Siddoway, Smyser. Total - 12.

Total - 35.

Whereupon the President declared [S 1148](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1161](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Sagness (Malepeai), Schroeder, Siddoway, Smyser, Stegner, Thorson (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1161](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

### Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:03 p.m. until the hour of 10:30 a.m., Friday, March 27, 2009.

BRAD LITTLE, President

Attest: RUSTI HORTON, Assistant Secretary of the Senate